

Brian E. Winn
Colchester, VT 05446

November 27, 2018

Judith Whitney, Clerk
Vermont Public Utility Commission
112 State Street, Montpelier, VT 05620

RE: Case numbers 18-0974, 18-1633, 18-3160 and 18-2850 - Public Comments of Brian Winn,
Former Director of Finance & Economics, Vermont Department of Public Service.

Dear Ms. Whitney,

With regard to the allegations made in the letter released by the PUC on November 19, 2018, I would like to submit the following public comments. For clarity, I have hand numbered the allegations on a copy of the letter posted in ePUC and included it as an attachment. I refer to these numbers in my comments.

Summary. I do not have any information that would confirm that GMP executives somehow colluded with Commissioner Tierney in this case. In my over two decades of experience in the electric utility industry, it is normal for utility executives to aggressively pursue the interests of their investors and to vigorously protect their company's reputation. GMP's conduct of this case is consistent with most investor owned utilities and, quite frankly, should be expected by everyone involved.

The Department of Public Service's conduct of the case is another matter. In my experience, ratepayer advocates are as aggressive in pursuing the interests of the ratepayers as utility executives are aggressive in pursuing the interests of investors. Commissioner Tierney would often explain that she was charged with the public interest which may be different from the ratepayer's interest. But in my opinion, many of the actions outlined below are in neither the public interest nor the rate payer's interest. The net effect is that the Department approached the GMP rate case with at least one hand tied behind it's back.

With respect to items 1, 2 and 3. These are partially correct but there are important details missing. The Department has effectively agreed to increase rates by almost 8%, but the increases will not go into effect all at once.

In their rebuttal testimony GMP updated the numbers and their current request is for a 5.43% increase to cover an anticipated revenue short-fall of approximately \$23.5 million. The one-time bill credit of approximately \$27.4 million is related to the recent corporate tax reform legislation. The net result is that GMP will, for the nine-month rate period, reduce customer bills by approximately \$3.9 million or .9%. When this bill credit expires, customer bills will increase, and they will be 5.43% higher than today.

The "accounting gimmick" is related to three Solar/Battery Storage Projects. The transactions are complicated but, in laymen's terms, these projects generate a large accounting benefit once they are completed. In utility rate making, these types of benefits are normally spread over the life of the projects. This is called intergenerational equity. GMP has taken the highly unusual approach of flowing these benefits to rate payers all in year one. In his letter to the PUC dated 11/20/2018, Geoff Hand has indicated that this one-time benefit resulted in 2.3% lower rates. GMP must file another proceeding to adjust rates higher but, having supported these projects, the DPS will have no basis to oppose them when GMP seeks to recover the higher costs going forward. See item 12 for additional details on these projects.

I cannot confirm whether GMP proposed a nine-month rate year instead of the normal twelve-month period to somehow hide the rate increase and have no basis to question their rationale for the change.

However, I would note that if GMP had filed a twelve-month case the revenue shortfall would be significantly higher, and the one-time credit would not have been able to completely offset the shortfall.

Item 4. This is essentially true. My recollection is that, in a meeting about the case, held even before there was any discovery, Commissioner Tierney indicated she was going to settle the case and approve the Solar/Battery Storage projects. At that time, those projects were referred to as “microgrids.” The meeting included at least seven or eight other individuals from the DPS. I do not recall her being specific as to the timing of the settlement at the first meeting. My recollection is that her specific thoughts as to timing, and whether to settle all outstanding issues, evolved over time. The main idea is that she did not want the DPS to oppose the microgrid projects. Had we opposed these projects, it would have resulted higher rates in the nine months covered by the rate case, which she wanted to avoid, even if it would likely save the ratepayers millions over the life of the project. See item 12 for additional details.

Item 5. This is true. Due to high turnover in the legal department, there was only one attorney assigned to these critical and time-consuming cases, despite having at least 5 attorneys on staff during this time period. This can be easily confirmed by checking the attorney of record for these cases. I wish to point out that the assigned attorney did a great job trying to manage this overwhelming case load.

Item 6. This is true. My recollection is that the prohibition against pursuing imprudence claims actually dates back to last year’s GMP rate case (17-3112). At least 4 individuals in the Department were present when Commissioner Tierney gave this direction. There a quite a few people who were told this second hand. This prohibition effectively gives GMP carte blanche to spend capital dollars without having to justify whether the dollars were spent wisely.

Item 7. This is true. Commissioner Tierney stated that she did not believe he was a “good witness” and that certain PUC Commissioners “could not stand him.” This is despite the fact, in public reports, the Department takes credit for his work in rate cases going back many years. The Commissioner would not even consider allowing the consultant to assist in the investigation without providing testimony.

Item 8. This is true. There should be emails where I expressed concerns about the delay in retaining the consultants.

Item 9. This is true. In prior cases, consultants from Larkin & Associates would visit GMP offices to review source documents and spot check general ledger items. This on-site review did not happen in this case primarily due to time constraints related schedule and the delay in retaining new consultants.

Item 10. This is true. This can be confirmed by comparing the schedules from the GMP case in 2017 to this case. The Commissioner requires attorneys to submit all testimony to her for review seven days in advance. There were times in this case where I only had a few days to review a mountain of documents before completing my testimony. In fact, I had to get permission from the Commissioner for a few additional days to review the data and write my testimony to ensure that she would not give the attorney a hard time for missing her deadline. There should be emails confirming all of this.

Item 11. This is true but with caveats. Department policy witnesses who are also experts are sometimes put in the uncomfortable position of having to advocate policy positions which conflict with their expert opinion. However, I want to emphasize that all the testimony I submitted is accurate. Commissioner Tierney makes all policy decisions but does not submit testimony. When my expert opinion conflicted with the Commissioner’s policy decision, my expert opinion was excluded, and it was clear I was communicating Department policy. There are inter-department emails referring to this and I have copies of her hand-written changes in prior cases. Finally, I did write a recommendation to exclude short-term incentive costs from the rate case which the Commissioner rejected without comment.

Item 12. This is true. In short, these projects are not needed from a system standpoint and are highly unlikely to deliver the economic benefits that GMP has asserted. Despite these concerns we were directed to settle the “microgrid” cases. The case records clearly establish that GMP did not demonstrate that there is a physical system need, or public policy requirement, for this type of equipment. In fact, they did no contemporaneous analysis to determine the optimal location of these projects from an electrical systems standpoint. Furthermore, GMP did not provide any support indicating that other lower cost alternatives to battery storage were considered and GMP did not solicit RFPs from competing battery suppliers. The primary justification offered by GMP for these projects is the economic benefit to rate payers, but that benefit is highly unlikely to be realized. Mr. Dawson of GDS Associates has raised serious doubts about the GMP analysis showing that the projects will provide economic benefits since the market price forecasts created by GMP were overly optimistic. The value of the projects is highly dependent on factors such as market price, the success in timing of peaks and other assumptions. The degree of uncertainty around the economic benefits is of concern since, in discovery, GMP stated that the primary business purpose of the projects was to provide those benefits. My recommendation was to oppose the projects and request the PUC exclude the over \$30 million on investment from rates.

Item 13. I cannot confirm this for several reasons. There were multiple changes to our recommendations in the weeks preceding the hearings as a result of conversations that our attorney had with GMP’s attorney. However, these changes were made to revise calculations based on more accurate information provided by GMP. There were also changes that eliminated proposed reductions due to the GMP attorney’s objections that the issues had already been litigated in the prior rate case. Additionally, I do not have any information about whether Commissioner Tierney directed these conversations.

Item 14. This is partially true. The day after the GMP rate case hearing, Commissioner Tierney told me not to return to the Department and I was given the option to negotiate a severance – which I did. We disagreed on the rate case but that did not come up and I prefer not to speculate about her motives.

Item 15. This is true. The recommendation from the Department, filed with the PUC on October 25, only proposed an approximately \$800,000 reduction in the rate increase request. In my opinion, had Commissioner Tierney not placed the previously discussed limitations on the Department’s ability to pursue the case, we would have achieved a result more line with previous cases.

Recommendation. My personal recommendation is that PUC should not delay it’s decision in this case. There are several reasons for this. First, unless there is evidence that GMP somehow influenced the actions of Commissioner Tierney, GMP should not be penalized for the Department’s failure to aggressively pursue the rate payer interests. Delaying the decision without evidence would likely impact the assessment of the regulatory environment in Vermont by the Credit Rating Agencies, which could result in higher borrowing costs for GMP. Those costs are ultimately passed on to Vermont rate payers. Also, it is my understanding that the PUC needs to rule on a special contract for Global Foundries. That should not be delayed as it may be harmful to the interests of Vermont and ratepayers.

Finally, the Department of Public Service is clearly in need of leadership and structural changes. The Policy and Advocacy functions need to be separate. These issues should be addressed, in a bipartisan way, by the Governor and the Legislature. In the meantime, the PUC should take steps to ensure that the rate payer’s interests are protected in the pending GMP multi-year rate plan and other cases.

Respectfully,

Brian E. Winn